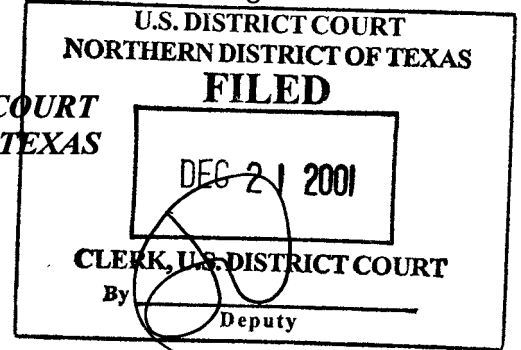


ORIGINAL

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**



CINDEE MACK,

Plaintiff,

v.

CENTER OPERATING COMPANY,

Defendant.

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§

CIVIL ACTION NO. 3:01CV2125-R

DEFENDANT'S ORIGINAL ANSWER

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, DEFENDANT, CENTER OPERATING COMPANY, ("DEFENDANT"),
and files this Original Answer stating the following:

I.

JURISDICTION, PARTIES AND VENUE

1. Defendant admits that the court has jurisdiction pursuant to Title VII of the Civil Rights Act of 1964, as amended and its related anti-retaliation regulations.
2. Defendant admits the allegations contained in paragraph 2 of Plaintiff's Original Complaint.
3. Defendant admits the allegations contained in paragraph 3 of Plaintiff's Original Complaint.
4. Defendant denies it has committed the unlawful employment practices which Plaintiff complains occurred in the Northern District of Texas. Defendant admits that venue is appropriate.

B

II.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

5. Defendant admits the allegations contained in paragraph 5 of Plaintiff's Original Complaint.

6. Defendant admits the allegations contained in paragraph 6 of Plaintiff's Original Complaint.

III.

FACTUAL BACKGROUND

7. Defendant admits that Plaintiff began her employment with Center Operating Company at its 1845 Woodall Rogers Freeway location in Dallas, Texas. Because Plaintiff has not defined "relevant dates", defendant is unable to admit or deny the allegations in the second sentence of paragraph seven (7). Defendant, however, admits that for some time period, Plaintiff worked under the supervision of Craig Courson as a Human Resource Specialist.

8. Defendant denies the allegations contained in paragraph 8 of Plaintiff's Original Complaint.

9. Defendant denies the allegations contained in paragraph 9 of Plaintiff's Original Complaint.

10. Defendant denies the allegations contained in paragraph 10 of Plaintiff's Original Complaint.

11. Defendant is without sufficient information to admit or deny the allegations contained in paragraph 11 of Plaintiff's Original Complaint. Accordingly the allegations are denied.

12. Defendant denies the allegations contained in paragraph 12 of Plaintiff's Original

Complaint.

13. Defendant denies the allegations contained in paragraph 13 of Plaintiff's Original

Complaint.

14. Defendant denies the allegations contained in paragraph 14 of Plaintiff's Original

Complaint.

15. Defendant denies the allegations contained in paragraph 15 of Plaintiff's Original

Complaint.

16. Defendant denies the allegations contained in paragraph 16 of Plaintiff's Original

Complaint.

17. Defendant denies the allegations contained in paragraph 17 of Plaintiff's Original

Complaint.

18. Defendant denies the allegations contained in paragraph 18 of Plaintiff's Original

Complaint.

19. Defendant denies the allegations contained in paragraph 19 of Plaintiff's Original

Complaint.

20. Defendant denies the allegations contained in paragraph 20 of Plaintiff's Original

Complaint.

21. Defendant denies the allegations contained in paragraph 21 of Plaintiff's Original

Complaint.

22. Defendant is without sufficient information to either admit or deny the allegations contained in paragraph 22, therefore, Defendant denies the allegations contained in paragraph 22 of Plaintiff's Original Complaint.

23. Defendant denies the allegations contained in paragraph 23 of Plaintiff's Original Complaint.

24. Defendant denies there was any maltreatment of Plaintiff. Defendant is without sufficient information to either admit or deny that Plaintiff became ill, therefore, Defendant denies this allegation. Defendant is without sufficient information to either admit or deny that Plaintiff's medical provider ordered that Plaintiff not return to work "for a spell," therefore, Defendant denies this allegation.

25. Defendant denies the allegations contained in paragraph 25 of Plaintiff's Original Complaint.

26. Defendant denies the allegations contained in paragraph 26 of Plaintiff's Original Complaint.

27. Defendant denies the allegations contained in paragraph 27 of Plaintiff's Original Complaint.

28. Defendant denies the allegations contained in paragraph 28 of Plaintiff's Original Complaint.

IV.

CAUSES OF ACTION

A. Race Discrimination

29. Defendant denies the allegations contained in paragraph 29 of Plaintiff's Original Complaint.

30. Defendant denies the allegations contained in paragraph 30 of Plaintiff's Original Complaint.

31. Defendant denies the allegations contained in paragraph 31 of Plaintiff's Original Complaint.

32. Defendant denies the allegations contained in paragraph 32 of Plaintiff's Original Complaint.

33. Defendant denies the allegations contained in paragraph 33 of Plaintiff's Original Complaint.

34. Defendant denies the allegations contained in paragraph 34 of Plaintiff's Original Complaint.

35. Defendant denies that it has violated Title VII. Defendant is without sufficient information to either admit or deny the allegations remaining in paragraph 35 of Plaintiff's Original Complaint, therefore Defendant denies the allegations remaining in paragraph 35 of Plaintiff's Original Complaint.

B. Sex Discrimination

36. Defendant denies the allegations contained in paragraph 36 of Plaintiff's Original Complaint.

37. Defendant denies the allegations contained in paragraph 37 of Plaintiff's Original Complaint.

38. Defendant denies the allegations contained in paragraph 38 of Plaintiff's Original Complaint.

39. Defendant denies the allegations contained in paragraph 39 of Plaintiff's Original Complaint.

40. Defendant denies the allegations contained in paragraph 40 of Plaintiff's Original

Complaint.

41. Defendant denies the allegations contained in paragraph 41 of Plaintiff's Original

Complaint.

42. Defendant denies the allegations contained in paragraph 42 of Plaintiff's Original

Complaint.

43. Defendant denies the allegations contained in paragraph 43 of Plaintiff's Original

Complaint.

44. Defendant denies that it has violated Title VII. Defendant is without sufficient information to either admit or deny the allegations remaining in paragraph 44 of Plaintiff's Original Complaint, therefore, Defendant denies the allegations remaining in paragraph 44 of Plaintiff's Original Complaint.

45. Defendant denies the allegations contained in paragraph 45 of Plaintiff's Original

Complaint.

C. Section 1981 Violation

46. Defendant denies the allegations contained in paragraph 46 of Plaintiff's Original

Complaint.

47. Defendant denies the allegations contained in paragraph 47 of Plaintiff's Original

Complaint.

48. Defendant denies the allegations contained in paragraph 48 of Plaintiff's Original

Complaint.

49. Defendant denies the allegations contained in paragraph 49 of Plaintiff's Original

Complaint.

50. Defendant denies the allegations contained in paragraph 50 of Plaintiff's Original Complaint.

D. Retaliation

51. Defendant denies the allegations contained in paragraph 51 of Plaintiff's Original Complaint.

52. Defendant denies the allegations contained in paragraph 52 of Plaintiff's Original Complaint.

53. Defendant denies the allegations contained in paragraph 53 of Plaintiff's Original Complaint.

54. Defendant denies the allegations contained in paragraph 54 of Plaintiff's Original Complaint.

55. Defendant denies the allegations contained in paragraph 55 of Plaintiff's Original Complaint.

E. Intentional Infliction of Emotional Distress

56. Defendant denies the allegations contained in paragraph 56 of Plaintiff's Original Complaint.

57. Defendant denies the allegations contained in paragraph 57 of Plaintiff's Original Complaint.

58. Defendant denies the allegations contained in paragraph 58 of Plaintiff's Original Complaint.

59. Defendant denies that it has caused Plaintiff any harm. Defendant is without sufficient information to either admit or deny the allegations remaining in paragraph

59 of Plaintiff's Original Complaint, therefore, Defendant denies the allegations remaining in paragraph 59 of Plaintiff's Original Complaint.

60. Defendant denies the allegations contained in paragraph 60 of Plaintiff's Original Complaint.

F. Negligent Retention and Negligent Supervision

61. Defendant denies the allegations contained in paragraph 61 of Plaintiff's Original Complaint.

62. Defendant denies the allegations contained in paragraph 62 of Plaintiff's Original Complaint.

63. Defendant denies the allegations contained in paragraph 63 of Plaintiff's Original Complaint.

64. Defendant denies the allegations contained in paragraph 64 of Plaintiff's Original Complaint.

65. Defendant denies the allegations contained in paragraph 65 of Plaintiff's Original Complaint.

66. Defendant denies the allegations contained in paragraph 66 of Plaintiff's Original Complaint.

67. Defendant denies the allegations contained in paragraph 67 of Plaintiff's Original Complaint.

68. Defendant denies the allegations contained in paragraph 68 of Plaintiff's Original Complaint.

69. Defendant denies the allegations contained in paragraph 69 of Plaintiff's Original

Complaint.

70. Defendant denies the allegations contained in paragraph 70 of Plaintiff's Original Complaint.

71. Defendant denies the allegations contained in paragraph 71 of Plaintiff's Original Complaint.

72. Defendant denies that is has caused Plaintiff any harm. Defendant is without sufficient information to either admit or deny the allegations remaining in paragraph 72 of Plaintiff's Original Complaint, therefore, Defendant denies the allegations remaining in paragraph 72 of Plaintiff's Original Complaint.

73. Defendant denies the allegations contained in paragraph 73 of Plaintiff's Original Complaint.

G. Constructive Discharge

74. Defendant denies the allegations contained in paragraph 74 of Plaintiff's Original Complaint.

75. Defendant denies the allegations contained in paragraph 75 of Plaintiff's Original Complaint.

76. Defendant denies the allegations contained in paragraph 76 of Plaintiff's Original Complaint.

77. Defendant denies the allegations contained in paragraph 77 of Plaintiff's Original Complaint.

78. Defendant denies the allegations contained in paragraph 78 of Plaintiff's Original Complaint.

H. Invasion of Privacy

79. Defendant denies the allegations contained in paragraph 79 of Plaintiff's Original Complaint.

80. Defendant denies the allegations contained in paragraph 80 of Plaintiff's Original Complaint.

81. Defendant denies the allegations contained in paragraph 81 of Plaintiff's Original Complaint.

82. Defendant denies the allegations contained in paragraph 82 of Plaintiff's Original Complaint.

I. Equal Pay Act

83. Defendant denies the allegations contained in paragraph 83 of Plaintiff's Original Complaint.

84. Defendant denies the allegations contained in paragraph 84 of Plaintiff's Original Complaint.

85. Defendant denies the allegations contained in paragraph 85 of Plaintiff's Original Complaint.

86. Defendant denies the allegations contained in paragraph 86 of Plaintiff's Original Complaint.

87. Defendant denies it has committed any wrongdoing. Defendant is without sufficient information to either admit or deny the allegations remaining in paragraph 87 of Plaintiff's Original Complaint, therefore Defendant denies the allegations remaining in paragraph 87 of Plaintiff's Original Complaint.

VI.

DAMAGES

89. Defendant denies the allegations contained in paragraph 89 of Plaintiff's Original Complaint.

90. Defendant denies it has committed any unlawful or tortious acts. Defendant is without sufficient information to either admit or deny the allegations remaining in paragraph 90 of Plaintiff's Original Complaint, therefore, Defendant denies the allegations remaining in paragraph 90 of Plaintiff's Original Complaint.

91. Defendant is without sufficient information as to whether Plaintiff has suffered any "out-of-pocket expenses, which include litigation costs and other expenses to preserve her ability to earn a living," therefore, Defendant denies this allegation. Defendant denies that Plaintiff shall prove her entitlement to all general, special, incidental and consequential damages at trial.

92. Defendant denies that Plaintiff is entitled to any damages.

93. Defendant denies all matters not specifically admitted herein.

AFFIRMATIVE DEFENSES

General

94. Plaintiff's allegations fail to state a claim for which relief may be granted.

95. Plaintiff's claims are barred by the applicable statutes of limitations.

96. Defendant asserts the after-acquired evidence doctrine.

97. Defendant asserts the doctrine of waiver.

98. Defendant asserts the defense of Plaintiff's failure to mitigate damages.

99. Defendant asserts that Plaintiff has failed to exhaust her administrative remedies.

Race Discrimination

100. Defendant asserts that Plaintiff's claims are barred by the 300 days limitations period.

101. Defendant asserts that Plaintiff has failed to exhaust her administrative remedies.

102. Defendant asserts that it has a policy in place to prevent and correct a hostile environment and Plaintiff unreasonably failed to take advantage of it.

Sex Discrimination

103. Defendant asserts that Plaintiff's claims are barred by the 300 days limitations period.

104. Defendant asserts that Plaintiff has failed to exhaust her administrative remedies.

105. Defendant asserts that it has a policy in place to prevent and correct a hostile environment and Plaintiff unreasonably failed to take advantage of it.

Section 1981

106. Defendant asserts that Plaintiff's claims were not brought within the applicable statute of limitations.

Retaliation

107. Defendant asserts that Plaintiff's claims are barred by the 300 day limitations period.

Negligent Retention and Negligent Supervision

108. Defendant asserts that it did not owe a duty to Plaintiff.

109. Defendant asserts that it is not the proximate cause of Plaintiff's damages.

Invasion of Privacy

110. Defendant asserts the defense of implied consent.

Equal Pay Act

111. Defendant asserts that Plaintiff was not substantially equal in terms of effort, skill,

and responsibility to other male employees.

112. Defendant asserts that it has not discriminated against Plaintiff and that any and all discriminatory facts alleged by Plaintiff can be explained by factors other than sex.

WHEREFORE, PREMISES CONSIDERED, Defendant requests that Plaintiff take nothing by her suit, that Defendant recover all costs of suit and attorney's fees herein expended together with such other and further relief to which Defendant may be justly entitled.

Respectfully submitted,

WHITE & WIGGINS, L.L.P.



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**ATTORNEYS FOR DEFENDANT
CENTER OPERATING COMPANY**

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above and foregoing has been forwarded via certified mail, return receipt requested to Katrina Patrick, 5177 Richmond Avenue, Suite 1275, Houston, Texas 77056, on this the 21st day of December 2001.



KEVIN B. WIGGINS